

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: George K. Whitesell)
District L1, Block 59H, Parcel E15) Shelby County
Residential Property)
Tax year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$35,000	\$138,900	\$173,900	\$43,475

On May 19, 2006, the property owners filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on August 1, 2006 in Memphis. In attendance at the hearing were the appellant, George K. Whitesell, and Shelby County Property Assessor's representative Jonathan Jackson.

Findings of Fact and Conclusions of Law

The property in question is a two-story brick/frame dwelling located at 3398 Iron Bridge Cove in Lakeland. Built in 1990 on a 0.38-acre lot, this house contains 2,338 square feet of living area and an attached garage. The appellant has owned the property since 1993.

In the summer of 2005, Mr. Whitesell hired a local contractor to repair windows; replace columns; and repaint the front of the house. That work was completed at a cost of approximately \$2,700. However, as shown in a series of photographs introduced by the appellant at the hearing, some physical deterioration and damage (e.g., water and termite) remain to be addressed when financial resources are available.

Mr. Whitesell previously appealed the assessment of the subject property to the State Board in tax year 2001. In that case, Administrative Judge Mark J. Minsky accepted the \$160,000 value to which the parties had stipulated.

Shelby County underwent its next reappraisal in 2005, prompting another complaint by Mr. Whitesell. Upon review of the Assessor's original value of \$167,000, the full county board determined that the subject property should be appraised at \$173,900. This appeal to the State Board ensued.

At the hearing, the appellant submitted information concerning recent sales and current appraisals of a number of homes in the immediate vicinity. Mr. Whitesell placed particular emphasis on: (1) 3408 Iron Bridge Cove, a *frame* house of similar age and size whose

appraised value was reduced to \$154,100; and (2) 3386 Iron Bridge Cove, a 2,124-square-foot house that sold for \$158,000 in January, 2004.

From the five comparables generated by the Assessor's mass appraisal system, Mr. Jackson picked three in support of the disputed value – including 3386 Iron Bridge Cove.¹ According to his analysis, the adjusted sale prices ranged from \$169,300 to \$183,100. All three of the selected comparables were called "average" in condition.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

Since the appellant seeks to change the present valuation of the subject property, he has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

Historically, in the adjudication of appeals pursuant to Tenn. Code Ann. section 67-5-1412, the State Board has deemed the *appraised* values of properties purportedly comparable to the one in question to be irrelevant. As the Assessment Appeals Commission has observed in a similar context:

...[I]t is not our task to adjust one tax valuation to match or correspond with another. We may certainly consider the overall level of assessments in the jurisdiction for purposes of equalization relief, but it is not alleged here that properties in the county are generally undervalued by the assessor to the taxpayer's detriment. The reduced value won by Mr. Jonakin's neighbor may or may not represent market value, but the issue before us is the market value of the subject property....

Jerry L. & Margaret D. Jonakin (Shelby County, Tax Years 1993 & 1994, Final Decision and Order, December 13, 1994), p.2.

Likewise, in the appeal of Stella L. Swope (Davidson County, Tax Years 1993 & 1994, Final Decision and Order, December 7, 1995), the Commission pointed out that:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Id. at p. 2.

In this case, the best indicators of the subject property's value on January 1, 2005 appear to be the sales of nearby 3386 and 3399 Iron Bridge Cove. Those somewhat smaller homes brought \$158,000 and \$167,000, respectively, about one year before the reappraisal date. Although Mr. Jackson's time and size adjustments to these prices seem entirely reasonable, the aforementioned photographs strongly suggest that those comparables were in better condition than Mr. Whitesell's house at the time of sale. Taking these factors into

¹The Assessor's representative downwardly adjusted the \$202,000 sale price for his 9584 El Hill Road comparable because of its larger size and location on a golf course. It should also be noted that the El Hill house was newer than the subject.

account, the administrative judge respectfully recommends reinstatement of the Assessor's original \$167,000 value.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

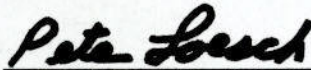
LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$35,000	\$132,000	\$167,000	\$41,750

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 18th day of August, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: George K. Whitesell
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office